

## **HAGUE CONVENTION ON INTERCOUNTRY ADOPTION**

The final text of the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention), a multilateral treaty, was adopted on May 29, 1993 at The Hague. The Convention covers all adoptions between countries that become parties to it and sets certain internationally agreed-upon norms and procedures. The goal of the Convention is to protect the children, birth parents and adoptive parents involved in intercountry adoptions. On May 1, 1995, the Convention entered into force between the first three countries that ratified it: Mexico, Romania, and Sri Lanka.

The United States signed the Convention on March 31, 1994, signaling its intent to proceed with efforts to ratify the Convention. On June 11, 1998, President Clinton transmitted the Convention, with an article-by-article legal analysis of its provisions, to the U.S. Senate for advice and consent to ratification. On June 19, 1998, the accompanying draft implementing legislation, entitled the "Intercountry Adoption Act," was sent to both houses of Congress. The legislation was prepared by an interagency committee, with significant input from the adoption community. The Convention and implementing legislation are currently with the Congress and awaiting Congressional action.

The United States was an active and important participant in the negotiation of the Convention. The U.S. delegation to the negotiations, which included adoptive parents, law professors, adoption service providers, public welfare representatives and government officials, sought to ensure that, in addition to setting meaningful norms and procedures, the Convention would remain sufficiently flexible so that only minimal changes to current practice would be necessary for U.S. implementation.

### **MAJOR ADVANTAGES OF THE CONVENTION AND ITS IMPLEMENTATION**

- Provides, for the first time, formal international and intergovernmental approval of the process of intercountry adoption.
- Encourages intercountry adoption, as regulated by the Convention, as a means of offering the advantage of a permanent family to a child for whom a suitable family cannot be found in the child's country of origin.
- Establishes a minimum set of uniform standards governing international adoptions. Every party country is able to promulgate or maintain further conditions and restrictions beyond those specified in the Convention.
- Establishes a Central Authority in each country to ensure that one authoritative source of information and point of contact exists in that country. In the U.S., authorities of other party countries and members of the American public will be able to look to the U.S. Central Authority for reliable information and assistance.
- Establishes reasonable certainty that adoptions decreed pursuant to the Convention will be recognized and given effect in all other party countries.
- Facilitates the adoption by U.S. adoptive parents of children from another party country by providing a justification for establishing a new category of children for immigration purposes. The Immigration and Nationality Act will be amended by the implementing legislation to establish a category of children adopted pursuant to the Convention, thereby streamlining U.S. visa procedures.

### **SUMMARY OF THE CONVENTION'S PROVISIONS**

- The Convention will apply to all adoptions between countries becoming parties to it.

- An adoption may take place only if: 1) the country of origin has established that the child is adoptable, that an intercountry adoption is in the child's best interests, and that after counseling, the necessary consents to the adoption have been given freely, AND, the receiving country has determined that the prospective adoptive parents are eligible and suited to adopt, and that the child they wish to adopt will be authorized to enter and reside permanently in that country.
- Every country must establish a national government-level Central Authority to carry out certain non-delegable functions which include cooperating with other Central Authorities, overseeing the implementation of the Convention in its country, and providing information on the laws of its country.
- Other functions under the Convention are delegable to public authorities and, in many cases, to adoption agencies and other international adoption service providers.
- Services provided by persons/entities other than adoption agencies are permitted if both the country of origin and the receiving country permit them.
- Persons wishing to adopt a child resident in another party country must apply to a designated authority in their own country.
- The Convention provides that, with limited exceptions, there can be no contact between the prospective adoptive parents and any person who cares for the child until certain requirements are met.
- All adoption service providers must be accredited/approved to provide services under the Convention.

## **COUNTRIES THAT PARTICIPATED IN CONVENTION NEGOTIATIONS**

Albania, Argentina, Australia, Austria, Belarus, Belgium, Benin, Bolivia, Brazil, Bulgaria, Burkina Faso, Canada, Chile, China, Colombia, Costa Rica, Cyprus, the Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Finland, France, Germany, Greece, Haiti, the Holy See, Honduras, Hungary, India, Indonesia, Ireland, Israel, Italy, Japan, Kenya, Republic of Korea, Lebanon, Luxembourg, Madagascar, Mauritius, Mexico, Nepal, the Netherlands, Norway, Panama, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Senegal, Slovenia, Slovak Republic, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Turkey, United Kingdom, United States, Uruguay, Venezuela, Vietnam.

For a list of countries party to the Hague Adoption Convention, see the Hague Conference on Private International Law website.